

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Rhonda Bennett, :
Plaintiff : Civil Action 2:11-cv-0916
v. : Judge Frost
Verizon Wireless, *et al.*, : Magistrate Judge Abel
Defendants :
:

Initial Screening Report and Recommendation

Plaintiff Rhonda Bennett brings this action alleging that defendants have been signing into her cell phone account, using her name and password, then charging her money she does not owe for items she did not purchase. Plaintiff's motion to proceed without prepayment of fees and costs is GRANTED.

This matter is before the Magistrate Judge for screening of the complaint under 28 U.S.C. §1915(e)(2) to identify cognizable claims, and to recommend dismissal of the complaint, or any portion of it, which is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *See, McGore v. Wrigglesworth*, 114 F.3d 601, 608 (6th Cir. 1997). The complaint does not satisfy the requirements of Rule 8(a), Federal Rules of Civil Procedure, that it "contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends . . ." Accordingly, the Magistrate Judge
RECOMMENDS that the complaint be dismissed

Analysis. The complaint fails to allege subject matter jurisdiction. Federal courts are courts of limited jurisdiction. They may only exercise subject matter jurisdiction when authorized by the Constitution or statute. Here no federal claim is pleaded. Plaintiff and at least some defendants appear to be of Ohio, and the complaint does not plead that more than \$75,000 is in controversy. Consequently, there is no diversity of citizenship jurisdiction under 28 U.S.C. § 1332.

Accordingly, the Magistrate Judge RECOMMENDS that the complaint be DISMISSED because it fails to plead subject matter jurisdiction as required by Rule 8(a), Fed. R. Civ. P.

IT IS FURTHER ORDERED that plaintiff's application to proceed without prepayment of fees be GRANTED. The United States Marshal is ORDERED to serve upon each defendant named in the complaint a copy of the complaint and a copy of this Order.

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties a motion for reconsideration by the Court, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1)(B); Rule 72(b), Fed. R. Civ. P.

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *Thomas v.*

Arn, 474 U.S. 140, 150-52 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). See also, *Small v. Secretary of Health and Human Services*, 892 F.2d 15, 16 (2d Cir. 1989).

The Clerk of Court is DIRECTED to mail a copy of the complaint and this Report and Recommendation to each defendant.

s/Mark R. Abel
United States Magistrate Judge